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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

17 Defendants move ex parte to extend the date for discovery production the court set in its  
18 prior order resolving the parties' discovery dispute as relevant here. Ex Parte Appl., ECF No.  
19 158. Plaintiff opposes. Ex Parte Opp'n, ECF No. 161. For the reason set forth below, the court  
20 **denies** defendants' application.

21 Following defendants' prior motion for reconsideration, this court directed defendants to  
22 "promptly comply with the magistrate judge's order[]" and produce documents at issue within  
23 seven days. *See* Prior Order (Apr. 4, 2024) at 6, ECF No. 150. "When an act must be done  
24 within a specified time, the court may, for good cause, extend the time[] with or without motion  
25 or notice if the court acts, or if a request is made, before the original time expires." Fed. R. Civ.  
26 P. 6(b)(1)(A); *Tindall v. First Solar Inc.*, 892 F.3d 1043, 1048, 1048 (9th Cir. 2018). Defendants'

1 request was made on the date of the deadline, a disfavored practice. Regardless, they must  
 2 demonstrate good cause.<sup>1</sup>

3 On April 11, 2024, the date defendants were required to produce the documents, defense  
 4 counsel emailed plaintiff's counsel stating, "it will take a little over a week to pull the records."  
 5 Defense Email at 2, Ex Parte Opp'n Ex. 1, ECF No. 161-2. According to defendants, "the  
 6 number of reports, where they are housed, the limitations in the system, and limitations of staff,  
 7 makes this an impossible task to perform in the allotted time." Ex Parte Appl. at 2. Defendants  
 8 state the "soonest these records can possibly be pulled and provided to counsel will be April 19,  
 9 2024." *Id.* However, to "allow for human error in estimation," defendants request the new  
 10 deadline be set for April 25, 2024. *Id.* Further, defendants state the delay will not cause  
 11 "prejudice to plaintiff." *Id.*

12 Plaintiff opposes, arguing the "Sheriff's Office has had Plaintiff's facially relevant and  
 13 proportional Requests for ***nearly 16 months***, has been in receipt of an order requiring response to  
 14 the Requests for ***two months***, and has known for ***an entire week*** that it must make the required  
 15 production." Ex Parte Opp'n at 4 (emphasis in original). Additionally, plaintiff argues the  
 16 prejudice to plaintiff "could not be clearer" given the "proposed depositions for May" and the  
 17 "deadline for completion of discovery is less than two months away." *Id.* at 7–8. Plaintiff also  
 18 argues defendants "ha[ve] not shown that *ex parte* relief is merited," citing the requirements for  
 19 ex parte applications in this court's Civil Standing Order. *See id.* at 2, 5; Civil Standing Order  
 20 ¶ 7.

21 As plaintiff points out, defendants' ex parte application is procedurally improper under  
 22 this court's Standing Order, *see* Ex Parte Opp'n at 2, 5; Civil Standing Order ¶ 7, as well as under  
 23 Local Rule 144. Defendants have not provided a "satisfactory explanation" for why they could  
 24 not obtain a stipulation for the extension they request. *See generally* John R. Whitefleet Decl.,  
 25 ECF No. 158. Defendants provided plaintiff with less than three hours to respond on the day the

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<sup>1</sup> Because defendants seek to modify this court's prior order setting a deadline to produce documents, good cause must be shown under Federal Rule of Civil Procedure 6. Fed. R. Civ. P. 6(b)(1)(A). Rule 16 is not implicated by this application because defendants do not seek to modify the court's scheduling order. *See id.* R. 16(b)(4).

1 production was due before filing this ex parte application. *See* Defense Email at 1; Whitefleet  
2 Decl. ¶ 2. Defense counsel's declaration otherwise satisfies the requirements outlined in the  
3 court's standing order and the ex parte application is fully briefed. *See generally* Whitefleet  
4 Decl.; Ex Parte Appl.; Ex Parte Opp'n. The court exercises its discretion to consider the ex parte  
5 application, although counsel is once again cautioned to properly exhaust meet and confer in the  
6 future or risk further sanctions.

7 On the merits, the court finds defendants have not shown good cause. Defendants emailed  
8 plaintiff the day the documents were due stating it would "take a little over a week to pull the  
9 records" and requested plaintiff stipulate to a two-week extension. Defense Email at 1. Given  
10 that a week had already transpired since this court's order, it is unclear why an additional two  
11 weeks was necessary to produce the documents, particularly because defendants were already on  
12 notice they would need to produce the documents if the court did not rule in their favor on the  
13 motion for reconsideration. Moreover, defendants provide no reason why they waited until the  
14 day production was due to alert plaintiff and the court of their inability to meet the production  
15 deadline. Defendants have not provided a satisfactory explanation showing good cause, and so  
16 the ex parte application is **denied**. The previously imposed deadline remains in effect, *see* Prior  
17 Order (Apr. 4, 2024), and plaintiff may seek relief as warranted from this court or the magistrate  
18 judge.

19 This order resolves ECF No. 158.

20 IT IS SO ORDERED.

21 DATED: April 24, 2024.

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CHIEF UNITED STATES DISTRICT JUDGE